

REMARKS/ARGUMENTS

The claims have been divided into Groups as follows:

Group I: Claim(s) 1-5, drawn to a body cleaning agent, which can be poured or applied to the ear or navel, which hardens and may be removed.

Group II: Claim(s) 6, drawn to a method of using the body cleaning agent to cleanse the ear canal or navel.

Group III: Claim(s) 7 and 8, drawn to a navel cavity opener which permits stretching of the navel and discharge of a cleansing agent.

Applicants elect, with traverse, Group I, Claims 1-5, for examination.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (MPEP §803). Moreover, when citing lack of unity of invention, in a national stage application, the Examiner has the burden of explaining why each group lacks unity with each other (MPEP §1893.03(d)), i.e. why there is no single general inventive concept. The presence of no single inventive concept must be specifically described.

The Examiner has asserted that Groups I, II and III do not relate to a single general inventive concept under PCT Rule 13.1 because under PCT Rule 13.2, they lack the same or corresponding technical features. The examiner states:

“the element common to Groups I-III is a cleansing agent which solidifies and can be removed. As demonstrated by the prior art (see US Patent No. 2,914,442 by Halpern), cleansing agents which are applied to the ear canal, harden, and are mechanically removed along with cerumen (i.e., ear wax) and debris (i.e., dirt) of the ear canal are already known.”

Annex B of the Administrative Instructions under the PCT at (b) Technical Relationship states:

“The expression “special technical features” is defined in Rule 13.2 as meaning those technical features that defines a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any).”

Applicants respectfully submit that the Examiner has not provided any indication that the contents of the claims interpreted in light of the description was considered in making the assertion of a lack of unity and therefore has not met the burden necessary to support the assertion.

Applicants respectfully refer to Annex B of the Administrative Instructions Under the PCT, paragraph (c), which states in part, "Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims." Claims 2-8 all depend directly or indirectly from Claim 1 in this application.

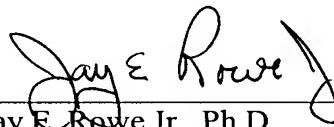
Applicants submit that the Examiner has not carried the burden of providing reasons or examples specifically supporting a conclusion that the groups lack unity of invention nor has the dependency of claims 2-8 from claim 1 been considered. For these reasons, Applicants submit that the Requirement for Restriction should be withdrawn.

Applicants request that if the invention of Group I is allowed, withdrawn Groups II and III which depend from the allowed claims be rejoined (MPEP §821.04).

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully Submitted,

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